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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,993	01/14/2004	Michel Pompei	033339/273168	3726
826 7590 10/04/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER LUKS, JEREMY AUSTIN	
			ART UNIT 2837	PAPER NUMBER
			MAIL DATE 10/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/756,993

Applicant(s)

POMPEI, MICHEL

Examiner

Jeremy Luks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Appeal

1. In view of the Appeal Brief filed on 7/11/07, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER

Claim Objections

2. Claim 10 is objected to because of the following informalities: There is a lack of antecedent basis for the term "the receiver wall". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zinn (3,611,653) in view of McNett (6,123,171). Zinn teaches a soundproofing panel (Figure 3) comprising a first wall (39, right wall) positioned in contact with a fluid containing a source of noise and a second wall (39, left wall) positioned in contact with a fluid in which the noise is to be attenuated, the panel further comprising at least one intermediate element (25) between said first (39) and second walls (39) and wherein the intermediate element (25) comprises over at least a portion of its outline at least one element (33 or 47) providing elastic coupling (Col. 3, Lines 39-44; Col. 5, Lines 9-12) between the intermediate element (25, 31) and only the second wall (39, left wall), and a first layer of sound- absorbing material (45) between said first wall (39, right wall) and said intermediate element (25, 31); wherein said at least one element (33) providing elastic coupling is situated only over the outline of the intermediate element (25, 31) or over at least a portion of said outline; wherein at least one flexible element (Figures 3

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and 5, #33 or 47) is a suspension stud made of flexible elastomer material (47 or 33 could be a suspension stud); including a plurality of suspension studs (33, 47) distributed along the periphery of the intermediate sheet (25, 31); wherein at least one flexible element (33, 47) is a strip of flexible elastomer material (Col. 3, Lines 39-44; Col. 5, Lines 9-12); and further including a rigid frame (31 could be a frame) secured to the intermediate sheet (25), and wherein at least one said flexible element (33) is fixed between the frame (31) and the second wall (39, left wall). Zinn fails to teach wherein the sound absorbing material is compressible; wherein the intermediate element is constituted by a rigid or semi-rigid intermediate plate interposed between a first layer and a second layer of sound-absorbing material, the assembly constituted by the intermediate plate and the two layers of sound-absorbing material being sandwiched between said first and second walls. McNett teaches wherein a layer of sound-absorbing material is compressible (Figure 1, #16) (Col. 2, Lines 49-52); and wherein an intermediate element (Figure 1, 11, 16, 17) is constituted by a rigid or semi-rigid intermediate plate (11) interposed between a first layer (16) and a second layer (17) of sound-absorbing material, the assembly constituted by the intermediate plate (11) and the two layers of sound-absorbing material (16, 17) being sandwiched between first (10) and second (12) walls when used in combination. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Söderquist as modified of with the apparatus of McNett to provide additional absorbing layers designed to provide substantial flexibility, compressibility and dampening to assist in absorbing transmitted sound and minimizing the coupling of the acoustic energy between layers.

4. Claims 7-9 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zinn (3,611,653) in view of McNett (6,123,171) as applied to claim 1, and further in view of Söderquist (4,317,503).

With respect to claims 7-9, 11 and 15, Zinn and McNett are relied upon for the reasons and disclosures set forth above. Zinn further teaches a flexible element (33, 47) disposed between an intermediate element (25) and a second wall (39, left wall); wherein at least one flexible element (Figures 3 and 5, #47) is a flexible wall made up of one or more segments (47); and wherein the panel (Figures 1 and 3) comprises a plurality of intermediate elements (25) covering a second wall (39). Zinn and McNett fail to teach a rigid frame secured to said second wall and wherein at least one flexible element is disposed between the frame and the intermediate element; wherein at least one said flexible element is interposed between the frame and the intermediate element; wherein at least one said flexible element is fixed between the inner outline of an opening in the frame and the periphery of the intermediate element. Söderquist a rigid frame (Figure 6, 10') secured to said second wall (2) and wherein at least one flexible element (of Zinn) is disposed between the frame (10') and the intermediate element (5) (of Zinn when used in combination); wherein at least one said flexible element (of Zinn) is interposed between the frame (10') and the intermediate element (5) (of Zinn when used in combination); wherein at least one said flexible element (of Zinn #47) is fixed between the inner outline of an opening in the frame (10', see honeycomb structure) and the periphery of the intermediate element (5) (or Zinn #25 when used in combination); and wherein the rigid frame (10') presents a plurality of

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openings (see honeycomb structure in Figure 6), and the plurality of intermediate elements (Zinn, Figure 1, #25), each covering one or more openings of the rigid frame (10') when used in combination. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the apparatus Zinn as modified of with the apparatus of Söderquist to provide an inner frame element providing a desired strength and stiffness, while also providing high sound absorbing ability.

With respect to Claims 12-14 and 16, Söderquist teaches the rigid frame (Figure 6, #10) is a cellular array of the honeycomb type presenting an array of cells, in particular hexagonal cells, sandwiched between two rigid plates (2, 7), and the rigid frame (10) defines a plurality of internal cavities or openings which are filled at least in part with soundproofing material (Col. 2, Lines 11-26), and the panel (Figure 6) includes an intermediate element (5) covering at least the outer outline of the rigid frame (10).

Response to Arguments

5. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection. The Examiner considers the obvious combination of Zinn, McNett and Söderquist to teach all of the limitations as claimed by Applicant.

Conclusion

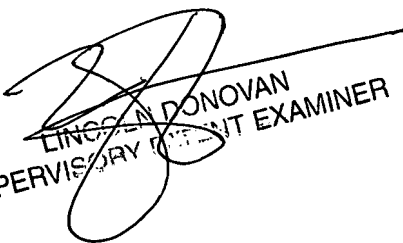
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent arts of record relating to sound proofing panels are disclosed in the PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy Luks whose telephone number is (571) 272-2707. The examiner can normally be reached on Monday-Thursday 8:30-6:00, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeremy Luks
Patent Examiner
Art Unit 2837
Class 181


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER